



## Corrections and Community Supervision

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Governor

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### Office of Special Investigations

#### Final Investigative Report

#### I. Background

**OSI Case #:** IAD/16/0444 **Incident Date:** March 14, 2016

**Facility:** Orleans Correctional Facility

**Complaint Source:** Inmate Wishart

**Initial Allegation:** Inmate George Wishart 11B1824 alleged to Investigator Tirado that he was assaulted by staff at Orleans Correction Facility during the lockdown on March 14, 2016. He also said his fiancée was being harassed by an Officer and that she possessed emails from the officer.

**Additional Allegation 1:** Inmate George Wishart 11B1824 further alleged that the assault was related to his fiancée being harassed by an officer and that she possessed emails from the officer.

**Additional Allegation 2:** Officer Peter Welkley possessed the personal contact information of [REDACTED], Inmate Wishart's fiancée, and contacted her numerous times via e-mail.

#### II. Summary of Investigative Findings

The OSI investigation found **sufficient evidence** to substantiate the allegation that Inmate George Wishart 11B1824 had been assaulted by staff at Orleans Correctional Facility.

The OSI investigation found **sufficient evidence** to substantiate that Correction Officer Peter Welkley obtained the personal contact information for Inmate Wishart's fiancée [REDACTED], failed to report this contact, and instead utilized the information to initiate contact with [REDACTED].

#### III. Summary of Investigation

On March 14, 2016, while monitoring Orleans Correctional Facility during a facility wide shutdown, Investigator Chris Tirado interviewed Inmate George Wishart 11B1824 (Wishart) at the request of CIU Sergeant Rice. Wishart was taken to the Orleans Correctional Facility SHU for refusing a direct order. When interviewed by Investigator Tirado Wishart had visible bumps and cuts on his head and stated that he had just been assaulted.

A second interview of Wishart was conducted later in the evening by Investigator Lustan. During this interview, Wishart stated that a few days ago he had spoken to his dorm officer, Correction Officer (CO) Palistrant, about Officer Peter Welkley, who was emailing his girlfriend. Wishart stated he did this so that CO Palistrant would speak to CO Welkley and request that he stop contacting his girlfriend.

Wishart stated that the morning his unit was frisked, he was using the bathroom when the door was kicked open and he was taken into the dayroom where he was punched in the face and kicked. From there he said he was taken between the doors where a CO stated to him "so you're going to fucking rat. You want to rat on my partner." He said he was again punched in the spine

and then kneed in the groin by a CO. Wishart said he was unable to identify any of the officers present other than they were the officers who responded to the incident on C-2.

Wishart provided an email address he said belongs to CO Welkley: [REDACTED]@gmail.com. Wishart also stated that he had in his possession copies of the emails sent from CO Welkley to his girlfriend.

Wishart said he had in his property the contents of the emails CO Welkley had sent to his girlfriend, [REDACTED] (maiden name: [REDACTED]). Wishart said inmate Branch on C-2 was also aware of the ongoing harassment in the visit room, as was his girl.

Wishart said the harassment consisted of CO Welkley making lewd comments to her about being with an inmate, and referenced how she looked good in her Facebook photos. He believed the harassment started sometime around Valentine's Day.

When interviewed, Wishart had visible marks on his head, as well as his wrists where the handcuffs had been applied. He said on numerous occasions officers had asked him what he was talking to the IG about. He said Lieutenant Bright came down to interview him and while taking pictures tried to downplay the injuries and told him he was fine.

Wishart's property was searched a draft copy of the grievance was obtained that contained the content of the emails and times the emails were sent.

DSS Casaceli confirmed the one of the CO's who cosigned Wishart's misbehavior report (CO Soria) is friends with CO Welkley.

#### **Inmate Injury Report**

On March 14, 2016, at 4:30pm, Wishart was examined by RN Greg Quinn at the Orleans Correctional Facility Infirmary. A review of the report indicated that Wishart noted that he "received his injuries from several different officers". Lt Bright was listed as the reporting DOCCS Employee.

RN Quinn noted that Wishart had the following injuries: Superficial scratch with 1" swelling to right Occipital area. Complains of bruising and pain to left shoulder, thigh and calf, but no sign of injury noted. Redness to right forehead, no swelling.

#### **Inmate Misbehavior Report**

On March 14, 2016 at 10:50am, Wishart was issued an Inmate Misbehavior Report for the following violations: 106.10 Direct Order, 104.13 Disturbance, 107.11 Harassment, 107.10 Interference, 115.10 Frisk Procedures.

The report was authored by CO Sullivan, and witnessed by CO Soria. The report noted that CO Sullivan and CO Soria, while responding to a fight on C-2 dorm, encountered Wishart in the bathroom. The report stated that Wishart refused multiple direct orders, the report noted that "Wishart stated in a loud voice that he "was not leaving". The report further noted that Wishart was directed to the vestibule where he again failed to fully comply with the frisk procedures and that once compliant, Wishart was escorted to the infirmary by Sergeant Opperman and a roundsman.

#### **Information obtained from [REDACTED]**

On March 15, 2016, [REDACTED] was contacted via telephone relative to a complaint received from Inmate George Wishart 11B1824. [REDACTED] stated that a correction officer at Orleans had been contacting her via email and she still had copies of the emails. She was crying as she described how she was terrified to make any report about the misconduct for fear that the CO might retaliate against Wishart.

On March 15, 2016 [REDACTED] forwarded the following emails to Investigator Lustan:

#### **EMAIL – 1**

**From:** [REDACTED]@gmail.com]

**Sent:** Tuesday, March 15, 2016 9:50 AM

**To:** Lustan, Scott E (DOCCS)

**Subject:** Fwd:



----- Forwarded message -----

From: Peter Welkley [REDACTED]@mail.com>

Date: Friday, February 26, 2016

Subject:

To: [REDACTED]@gmail.com>

This is someone who hopes he sees you this weekend although I'm not gonna like watching what you're doing. Lol.

On Feb 26, 2016 7:31 PM, [REDACTED]@gmail.com> wrote:

Who is this? I just wanna make sure I got the right person.

On Friday, February 26, 2016, Peter Welkley [REDACTED]@gmail.com> wrote:

Where you been girl???

On Feb 26, 2016 10:51 AM, [REDACTED]@gmail.com> wrote:

Absolutely!!!! Lol

On Tuesday, February 23, 2016, Peter Welkley [REDACTED]@gmail.com> wrote:

Anybody know where I can find a petite, beautiful blond woman???

Sent from Gmail Mobile

#### EMAIL - 2

From: [REDACTED]@gmail.com]

Sent: Tuesday, March 15, 2016 9:49 AM

To: Lustan, Scott E (DOCCS) <Scott.Lustan@doccs.ny.gov>

Subject: Fwd:

----- Forwarded message -----

From: Peter Welkley [REDACTED]@mail.com>

Date: Saturday, February 27, 2016

Subject:

To: [REDACTED]@gmail.com>

What?? No visit today??

Sent from Gmail Mobile

On April 16, 2016, Investigator Ryan Graziano, met with and collected a supporting deposition from [REDACTED] in regards to her interactions with Officer Welkley.

#### Inmate Interviews

On March 23, 2016, Inmate Samuel Greene, 15B1663 (Greene), was interviewed regarding the incident that occurred on March 14, 2016 involving Inmate Wishart 11B1824. Greene stated that he did not witness the fight, but heard it. Greene stated that approximately 20 COs responded to a two man fight that occurred on the dorm. Greene stated that an individual known as Jo Jo, who Greene described as white kid, age 40. Greene stated that Jo Jo was not involved in the two man fight on the dorm. Greene stated that the police came in during the fight and confronted Jo Jo who was either on the telephone or utilizing the bathroom during the two man fight. Greene stated that he witnessed three (3) COs place Jo Jo on the wall.

On March 23, 2016, Inmate Alfredo Ariososa, 07B1916, was interviewed involving the incident that occurred on March 14, 2016 involving Inmate Wishart 11B1824. Ariososa stated that during lockdown a two man fight occurred on the dorm. Ariososa stated that two kids from 45 and 23 were fighting over pouches. Ariososa stated that during this fight there was another incident that involved

an individual he identified as Jo Jo. Ariosa stated that Jo Jo was in the bathroom during the fight. Ariosa stated that he witnessed a group of Officers remove Jo Jo from the bathroom and throw him on the wall. Ariosa stated that he did not see the names of the COs who encountered Jo Jo, but would be able to recognize them if shown photographs. Ariosa stated that he later observed Jo Jo with two sergeants; Sergeant Rice and a second Sergeant with glasses. ARIOSA stated that he believes the incident with Jo Jo may have been the result of an earlier incident that occurred in the visiting room. Ariosa stated that he observed a CO approach Jo Jo's wife in the visiting room and that this CO had been sending messages to Jo Jo's wife. Ariosa stated that he was aware of other improper procedures occurring within the facility.

On April 11, 2016, Inmate Alfredo Ariosa 07B1916, was interviewed at Orleans Correctional facility Visiting Room about the incident that occurred involving Inmate Wishart 11B1824. Ariosa 07B1916 was shown the photo book containing staff photos of Correction Officers that may have responded to the two man fight in the dorm. Ariosa said #16 (Opperman) was the Sergeant who was present. Ariosa said #22 (Soria) was an officer who came into the dorm. Ariosa said #23 (Swiatowy) was an officer who put his hands on Wishart in the dayroom. Ariosa said #27 (Welkley) was the reason everything started. Ariosa said that the Sergeant failed because of the way his subordinates acted. Ariosa said that there were photos missing. He said Sergeant Rice was present, but not in the photo book. Ariosa said there was another CO missing, who was involved. Ariosa described the CO as a skinny with a bald head.

On April 11, 2016, Inmates Kenneth Betts 14R0087, was interviewed at Orleans Correctional Facility regarding the incident that occurred involving inmate Wishart 11B1824 on March 14. Betts was shown a photo book containing staff photos of Correction Officers that may have responded to the two man fight in the dorm on March 14, 2016. Betts stated that the CO found in photo #23 (Swiatowy) ran into the bathroom. Betts was not able to further identify other Corrections Officers, but added that a couple of COs were missing. Betts specifically asked where Officer Sullivan's photo was.

On April 16, 2016, Wishart was shown a photo book containing staff photos of Correction Officers that may have responded to the two man fight in the dorm. Wishart provided the following information identifying the officers who assaulted him.

Photo 15 – CO Maryjanowski – Wishart stated that Maryjanowski struck him in the body, and threatened him while escorting him to the SHU. Wishart stated that once at the SHU, Maryjanowski caution other officers to be careful where they strike Wishart due to the fact that he has already spoken to IG.

Photo #16 – Wishart stated that Sergeant Opperman was in the area at the time of the assault. Photo #22 – Wishart stated that CO Soria punched him in the face multiple times. Wishart stated that CO Soria accused him of trying to set up CO Welkley. Wishart stated that CO Soria continue to strike him after he was handcuffed.

Photo #23 – Wishart stated that CO Swiatowy was in the area during his assault, but could not recall if Swiatowy was one of the individuals that struck Wishart.

Photo # 24 - CO Sullivan, Wishart stated that CO Sullivan was the first to grab him in the bathroom. Wishart stated that Sullivan stated that they were looking for him. Wishart stated that Sullivan struck him and kicked him. Wishart stated that Sullivan threatened him while escorting him to the infirmary.

#### **Staff Interviews/Memos**

A review of over two dozen staff memorandums failed to note or explain the circumstances of Wishart's injuries.

A memo submitted by Lt. Bright noted and provided consistent information from both Inmate Wishart's account of the assault and the Inmate Medical Report. The report was limited in its intent and attempted at the end to mitigate the incident.

Memorandums submitted by involved staff, Sergeant Opperman, CO Sullivan, Soria, and Maryjanowski all note that they encountered Wishart, which is consistent with Wishart's and other witnesses' accounts of the events, but all failed to note any use of force or threats made to Wishart.

A memorandum submitted by the escorting sergeant, Sergeant Opperman, notes that when he responded to a fight, he found Inmate Wishart in mechanical restraints, Opperman noted the he observed "NO noticeable injury to the inmate. Opperman noted that he escorted Wishart to the



infirmary with CO Maryjanowski. Opperman's memo notes that no force used. Opperman stated that when he departed the infirmary the inmate was in the "same physical condition as when first encountered and the "inmate had no noticeable injuries".

A memorandum submitted by a second escorting sergeant, Sergeant Morton, notes that he "observed a small bump to the back of inmate Wishart's head, and what appeared to be a popped pimple".

Q&As were conducted of Sgt. James Opperman, Correction Officer Peter Welkley, Correction Officer Joseph Sullivan, Correction Officer Cedrik Soria, and Correction Officer Palistrant. No staff member that was formally questioned deviated from their memo. During Q&A no one could provide a rational explanation on how these injuries occurred to Inmate Wishart.

Correction Officer Peter Welkley acknowledged being overly familiar with Inmate Wishart's fiancé, [REDACTED]. Welkley acknowledged communicating with [REDACTED] via e-mail. Welkley stated that one day she was discussing leaving Wishart because he was mean. Welkley then said [REDACTED] approached him and asked him if he had an e-mail address and then, after she left the visit, Welkley discovered a piece of paper with her e-mail address on it. Welkley kept the address, did not notify any supervisor, and then proceeded to contact [REDACTED].

#### IV. Findings and Recommendation

- **Initial Allegation:**      ☒ Substantiated    ☐ Unsubstantiated    ☐ Unfounded
- **Additional Allegation 1:**    ☐ Substantiated    ☒ Unsubstantiated    ☐ Unfounded
- **Additional Allegation 2:**    ☒ Substantiated    ☐ Unsubstantiated    ☐ Unfounded
- **Other Findings:**            ☒ Yes                    ☐ No

##### Description of Findings:

The OSI investigation found **sufficient evidence** to substantiate the allegation that Inmate George Wishart 11B1824 had been assaulted by staff at Orleans Correctional Facility.

On March 14, 2016, Inmate George Wishart was removed from his dorm for allegedly failing to obey a direct order, guided through his dorm by escorting officers, who denied using force, and was then escorted to infirmary after being frisked by responding staff. According to staff all these actions occurred without using force. However, upon interview by Investigator Tirado Inmate Wishart had visible injuries.

Inmate Wishart identified Officers Sullivan, Soria, and Maryjanowski as using force against Inmate him. Inmates also identified Sergeant Opperman as being present during the altercation.

There is **sufficient evidence** to substantiate that Correction Officer Peter Welkley was overly familiar with an inmate's visitor and contacted her numerous time via e-mail. Welkley stated he received an email address from [REDACTED] after a visit, but failed to report it to his supervisor and instead initiated communication with her. Ms. [REDACTED] stated that she did not provide the e-mail address, and did not know how Officer Welkley came to possess it. Regardless of the manner in which Officer Welkley came to possess Ms. [REDACTED] email address; by his own admission he contacted her and carried on conversations that were personal in nature and not necessary to carry out his official work duties.

There is **insufficient evidence** to support that the assault was directly related to Officer Welkley's contact with Ms. [REDACTED].

##### Recommendation(s):

Forward to Bureau of Labor Relations, DOCCS Executive Staff, and Orleans C.F. Administration, for review and whatever action they deem necessary.

**Refer to:**

- ☐ N/A
- ☒ Bureau of Labor Relations
- ☐ Criminal Prosecution
- ☒ DOCCS Executives
- ☐ Community Supervision Administration
- ☒ Facility Administration
- ☐ Other

• **If Other, Explain:**

**Administrative Review / Change of a Policy and Procedure:** ☐ Yes ☒ No

• **If Yes, Explain:**

**Closed Case Victim Notification** ☐ Yes ☒ N/A

**Close Case Subject Notification** ☒ Yes ☐ N/A

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**Report Prepared by:**

Scott E. Lustan Investigator

  
Signature

**Date:** 7/5/2016

**Report Reviewed and Approved By:**

Kevin R. Ryan Assistant Deputy Chief

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Signature

**Date:** Click here to enter a date.